

**§ 20-305.5. Recreational vehicle manufacturer warranty recall obligations.**

(a) It is unlawful for any manufacturer, factory branch, distributor, or distributor branch that manufactures or distributes recreational vehicles to fail to fully compensate its dealers located in this State in accordance with this section for warranty or recall work performed by the dealers related to the living facilities of the vehicle, including all labor and parts used to repair such living facilities and any equipment, plumbing, appliances, and other options included by the manufacturer, factory branch, distributor, or distributor branch in the purchase price paid by the dealer for the vehicle. For purposes of this section, the term "recreational vehicle" includes motor homes, travel trailers, fifth-wheel trailers, camping trailers, and truck campers as defined by G.S. 20-4.01(32b). With respect to those portions of the living facilities of recreational vehicles and any equipment, plumbing, appliances, and other options that are part of such living facilities and that are included by the recreational vehicle manufacturer, factory branch, distributor, or distributor branch in the purchase price paid by the dealer for the vehicle, the term "warrantor" shall mean any manufacturer or distributor of such living facilities or any equipment, plumbing, appliances, and other options that are part of such living facilities that offers a warranty in writing to either the recreational vehicle dealer or to the ultimate purchaser of the recreational vehicle. The term "warrantor" does not include a person that provides a service contract, mechanical or other insurance, or an extended warranty sold for separate consideration by a dealer or other person not controlled by a warrantor. Notwithstanding the terms or conditions of any contract or agreement, it is unlawful for any recreational vehicle manufacturer, factory branch, distributor, or distributor branch to fail to fully and timely compensate any of its franchised recreational vehicle dealers located in this State in accordance with this section for all parts and labor used by such franchised dealers in making warranty or recall repairs to such living facilities of recreational vehicles, including any equipment, plumbing, appliances, and other options included by the recreational vehicle manufacturer, factory branch, distributor, or distributor branch in the purchase price paid by the dealer for the vehicle, to the extent that the individual components of such living facilities are not separately warranted by the manufacturers or distributors of such components. Notwithstanding the terms or conditions of any warranty, contract, or agreement, it is unlawful for any warrantor, as defined in this subdivision, to fail to fully and timely compensate any franchised recreational vehicle dealer located in this State in accordance with this section for all parts and labor used by such franchised recreational vehicle dealer in making warranty or recall repairs to any component parts of the living facilities of recreational vehicles manufactured or distributed by such warrantor, including any equipment, plumbing, appliances, and other options included by a recreational vehicle manufacturer, factory branch, distributor, or distributor branch in the purchase price paid by the dealer for the vehicle.

(b) Each warrantor as defined in this subdivision and each recreational vehicle manufacturer, factory branch, distributor, and distributor branch that sells or distributes recreational vehicles in this State shall specify in writing to each recreational vehicle dealer licensed in this State who sells products manufactured or distributed by such warrantor or such recreational vehicle manufacturer, factory branch, distributor, or distributor branch, the recreational vehicle dealer's obligations for preparation, delivery, and warranty and recall service on its products, the schedule of compensation to be paid such dealers for parts, work, and service in connection with warranty or recall service, and the time allowances for the performance of such work and service. In no event shall such schedule of compensation fail to include reasonable compensation for diagnostic work and associated administrative requirements as well as repair service, labor, and transportation provided by the dealer to transport a recreational vehicle to and from a location at which the repairs can be made. Provided, however, that with respect to reimbursement for a recreational vehicle dealer's transportation expenses, the dealer is required to obtain the prior written authorization of the

affected warrantor before incurring any transportation expenses, which authorization shall not be unreasonably denied by the warrantor, and provided further that any such request for transportation reimbursement must be denied by the warrantor within 5 business days of the warrantor's receipt of the dealer's request for reimbursement or the request shall be deemed authorized and allowed. Time allowances for the performance of warranty work and service shall be reasonable and adequate for the work to be performed. The compensation which must be paid under this section must be reasonable; provided, however, that under no circumstances may the reasonable compensation under this section be in an amount less than the recreational vehicle dealer's current retail labor rate for nonwarranty work of like kind, provided such amount is competitive with the retail rates charged for parts and labor by other franchised recreational dealers within the dealer's market.

(c) A warrantor may not require a dealer to establish the rate customarily charged by the recreational vehicle dealer for labor by an unduly burdensome or time-consuming method or by requiring information that is unduly burdensome or time-consuming to provide, including, but not limited to, part-by-part or transaction-by-transaction calculations.

(d) For any part, equipment, plumbing system or device, or appliance or option, a warrantor shall reimburse the dealer the cost of the part, equipment, plumbing system or device, appliance or option, plus a minimum of a thirty percent (30%) handling charge and pay the cost, if any, of freight to return the part, equipment, appliance, or option to the warrantor.

(e) If a warrantor furnishes a part or component to a dealer, at reduced or no cost, to use in performing repairs under a warranty or recall repair, the warrantor shall compensate the dealer for the part or component in the same manner as warranty parts compensation under this section, by compensating the dealer on the basis of a thirty percent (30%) handling charge for the part or component as listed in the warrantor's price schedule less the cost for the part or component.

(f) Notwithstanding the terms of any warranty, contract, or agreement, all claims made by recreational dealers pursuant to this section for compensation for delivery, preparation, warranty and recall work, and transportation costs, including labor, parts, and other expenses, shall be paid by the affected warrantor within 30 days after receipt of claim from the dealer. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval. Any claim not specifically disapproved in writing within 30 days after receipt shall be considered approved and payment is due immediately. No claim which has been approved and paid may be charged back to the dealer unless it can be shown that the claim was false or fraudulent, that the repairs were not properly made or were unnecessary to correct the defective condition, or the dealer failed to reasonably substantiate the claim either in accordance with the manufacturer's reasonable written procedures or by other reasonable means. A warrantor shall not deny a claim or reduce the amount to be reimbursed to the dealer as long as the dealer has provided reasonably sufficient documentation that the dealer (i) made a good-faith attempt to perform the work in compliance with the written policies and procedures of the warrantor and (ii) actually performed the work.

Notwithstanding the foregoing, a warrantor shall not fail to fully compensate a dealer for warranty or recall work or make any chargeback to the dealer's account based on the dealer's failure to comply with the warrantor's claim documentation procedure or procedures unless both of the following requirements have been met:

- (1) The dealer has, within the previous 12 months, failed to comply with the same specific claim documentation procedure or procedures.
- (2) The warrantor has, within the previous 12 months, provided a written warning to the dealer by certified United States mail, return receipt requested, identifying the specific claim documentation procedure or procedures violated by the dealer.

(g) Every recreational vehicle manufacturer, factory branch, distributor, or distributor branch that manufactures or distributes recreational vehicles for sale in this State shall designate at least one of its employees knowledgeable in warranty administration who shall be the designated warranty contact person with whom its franchised dealers licensed in this State can communicate to assist them in filing and getting paid on warranty claims related to all component parts of all recreational vehicles such recreational vehicle manufacturer, factory branch, distributor, or distributor branch sells or distributes in this State. Each recreational vehicle manufacturer, factory branch, distributor, or distributor branch shall promptly notify, in writing, all of its franchised recreational vehicle dealers licensed in this State, the Commissioner, and the North Carolina Automobile Dealers Association, Incorporated, of the identity and contact information of the designated warranty contact person and any changes in this information. A recreational vehicle manufacturer or distributor that represents multiple suppliers or multiple line-makes of vehicles shall be permitted to designate a single individual as the designated warranty contact person for all such suppliers and line-makes of vehicles represented by such recreational vehicle manufacturer or distributor.

(h) It shall be unlawful for any warrantor or for any recreational vehicle manufacturer, factory branch, distributor, or distributor branch to recover or attempt to recover all or any portion of its costs for compensating recreational vehicle dealers licensed in this State for warranty or recall parts and service either by reduction in the amount due to the dealer or by separate charge, surcharge, or other imposition.

(i) It shall be unlawful for any recreational vehicle manufacturer, factory branch, distributor, or distributor branch to fail to indemnify and hold harmless its franchised dealers licensed in this State against any judgment for damages or settlements agreed to by the manufacturer, including, but not limited to, court costs and reasonable attorneys' fees of the recreational vehicle dealer, arising out of complaints, claims, or lawsuits, including, but not limited to, strict liability, negligence, misrepresentation, express or implied warranty, or rescission or revocation of acceptance of the sale of a vehicle as defined in G.S. 25-2-608, to the extent that the judgment or settlement relates to the alleged defective or negligent manufacture, assembly, or design of new recreational vehicles, parts, or accessories or other functions by the manufacturer, factory branch, distributor, or distributor branch beyond the control of the dealer. It shall be unlawful for any warrantor to fail to indemnify and hold harmless any recreational vehicle dealer located in this State who sold one or more products warranted by such warrantor against any judgment for damages or settlements agreed to by the warrantor, including, but not limited to, court costs and reasonable attorneys' fees of the recreational vehicle dealer, arising out of complaints, claims, or lawsuits, including, but not limited to, strict liability, negligence, misrepresentation, express or implied warranty, or rescission or revocation of acceptance of the sale of a vehicle or vehicle part, component, or accessory, as defined in G.S. 25-2-608, to the extent that the judgment or settlement relates to the alleged defective or negligent manufacture, assembly, or design of a product warranted by the warrantor or other functions of the warrantor beyond the control of the dealer. Any audit for warranty or recall parts or service compensation shall only be for the 12-month period immediately following the date of the payment of the claim by the manufacturer, factory branch, distributor, distributor branch, or warrantor. Any audit for sales incentives, service incentives, rebates, or other forms of incentive compensation shall only be for the 12-month period immediately following the date of the payment of the claim by the manufacturer, factory branch, distributor, distributor branch, or warrantor. Provided, however, these limitations shall not be effective in the case of fraudulent claims.

(j) It shall be unlawful for any warrantor or for any recreational vehicle manufacturer, factory branch, distributor, or distributor branch to direct or encourage any owner or purchaser of a recreational vehicle to have warranty or recall service work or other repairs on a

recreational vehicle made by a repair facility other than either the franchised dealer that sold the vehicle owner the recreational vehicle or the franchised dealer closest in proximity to such recreational vehicle owner or purchaser, provided that the recreational vehicle dealer who sold the vehicle to the owner or purchaser or who is located in closest proximity to such recreational vehicle owner or purchaser has sufficiently trained personnel and the necessary tools and equipment to make the required repairs to the vehicle, has not expressly stated in writing its desire to have the repairs made elsewhere, and is willing to make the repairs within a reasonable period of time after the necessary parts have been supplied to the dealer.

(k) In the event there is a dispute between a recreational vehicle dealer and a warrantor or a recreational vehicle manufacturer, factory branch, distributor, or distributor branch, with relating to any matter referred to in this section, either party may petition the Commissioner in writing, within 30 days after either party has given written notice of the dispute to the other, for a hearing on the subject and the decision of the Commissioner shall be binding on the parties, subject to rights of judicial review and appeal as provided in Chapter 150B of the General Statutes; provided, however, that nothing contained herein shall give the Commissioner any authority as to the content of any warrantor's warranty. Upon the filing of a petition before the Commissioner under this subsection, any chargeback to or any payment required of a recreational vehicle dealer by a warrantor or by a recreational vehicle manufacturer, factory branch, distributor, or distributor branch relating to warranty or recall parts or service compensation, or to sales incentives, service incentives, rebates, other forms of incentive compensation, or the withholding or chargeback of other compensation or support that a dealer would otherwise be eligible to receive, shall be stayed during the pendency of the determination by the Commissioner.

(l) The provisions of G.S. 20-305(4) through G.S. 20-305(28) and G.S. 20-305.2 to G.S. 20-305.4 shall not apply to manufacturers of or dealers in mobile or manufactured type housing or who sell or distribute only nonmotorized recreational trailers; provided, however, that unless specifically exempted, each of these provisions shall be applicable to all recreational vehicle manufacturers, factory branches, distributors, and distributor branches who sell or distribute any motorized recreational vehicles in this State. The provisions of G.S. 20-305.1 shall not apply to manufacturers of or dealers in mobile or manufactured type housing.

(m) To the extent not expressly inconsistent with the provisions of this section, all of the terms and provisions of G.S. 20-305.1 shall be applicable to recreational vehicle dealers and to recreational vehicle manufacturers, factory branches, distributors, and distributor branches under this section. For purposes of this section and Article 12 of Chapter 20 of the General Statutes of North Carolina, the relationship between a recreational vehicle manufacturer or recreational vehicle distributor, on the one part, and a recreational vehicle dealer that is located within this State, on the other part, pursuant to which the recreational vehicle dealer purchases and resells new recreational vehicles from the recreational vehicle manufacturer or recreational vehicle distributor, shall be considered a "franchise", as this term is defined in G.S. 20-286(8a), whether or not the rights and responsibilities of the parties have been delineated in a written agreement or contract. (1973, c. 88, s. 4; 1983, c. 704, s. 18; 2017-148, s. 4.)